



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 150623546-6395-02; RTID 0648-XC071]**

**Fisheries of the Caribbean, Gulf of Mexico, and South**

**Atlantic; 2022 Closure for Spiny Lobster in the U.S.**

**Exclusive Economic Zone around Puerto Rico**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) for spiny lobster in the U.S. exclusive economic zone (EEZ) around Puerto Rico. NMFS has determined that the annual catch limit (ACL) for spiny lobster in Puerto Rico was exceeded based on average landings during the 2017 through 2019 fishing years. Therefore, NMFS reduces the length of the 2022 fishing season for spiny lobster in the EEZ around Puerto Rico by the amount necessary to ensure that landings do not exceed the ACL in 2022. This AM is necessary to protect the spiny lobster resource in the EEZ around Puerto Rico.

**DATES:** This temporary rule is effective from 12:01 a.m., local time, on July 12, 2022, through September 30, 2022.

**FOR FURTHER INFORMATION CONTACT:** Sarah Stephenson, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail:

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**SUPPLEMENTARY INFORMATION:** The spiny lobster fishery of the U.S. Caribbean EEZ is managed under the Fishery Management Plan for Spiny Lobster of Puerto Rico and the U.S. Virgin Islands (USVI) (Spiny Lobster FMP). The Spiny Lobster FMP was prepared by the Caribbean Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On June 26, 2020, NMFS published in the **Federal Register** a notice of availability for three island-based FMPs and requested public comment (85 FR 38350). On September 22, 2020, the Secretary of Commerce approved the island-based FMPs under section 304(a)(3) of the Magnuson-Stevens Act. The island-based FMPs replace the four U.S. Caribbean-wide FMPs - Reef Fish, Spiny Lobster, Queen Conch, Corals and Reef Associated Plants and Invertebrates. The proposed regulations to implement management measures for the island-based FMPs published on May 19, 2022, and the public comment period is open through June 21, 2022 (87 FR 30730). Therefore, the proposed regulations for the island-based FMPs are not yet effective and this temporary rule implements the AM based on the Spiny Lobster FMP under the current regulations at 50 CFR 622.12(a)(3).

The final rule implementing the 2011 Caribbean ACL

Amendment, which included Amendment 5 to the Spiny Lobster FMP, among others, established an ACL and AM for spiny lobster in each island management area in the U.S. Caribbean (76 FR 82414, December 30, 2011). The ACL for spiny lobster in the EEZ around Puerto Rico is 327,920 lb (148,742 kg), round weight. In accordance with regulations at 50 CFR 622.12(a)(3), if NMFS estimates that landings have exceeded the spiny lobster ACL, based on an evaluation of a moving multi-year average of landings, NMFS will reduce the length of the fishing season for spiny lobster by the amount necessary to ensure landings do not exceed the ACL. If NMFS determines the ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season.

Puerto Rico commercial landings of spiny lobster for the 2020 and 2021 fishing years are still preliminary and not yet available for management use, and therefore, the 3-year average of commercial landings from the 2017-2019 fishing years were used in comparison to the ACL. Recreational landings for spiny lobster are not collected and therefore are not used in establishing or evaluating compliance with the ACL. NMFS used spiny lobster landings from the same fishing years in ACL monitoring procedures for the 2021 fishing year. Based on average landings of spiny lobster in Puerto Rico from 2017-2019, NMFS

determined that the spiny lobster ACL was exceeded and that the ACL overage was not the result of enhanced data collection or monitoring efforts.

This temporary rule implements an AM for spiny lobster to reduce the length of the 2022 fishing season to ensure that landings do not exceed the spiny lobster ACL in the 2022 fishing year. Therefore, the spiny lobster fishery in the EEZ around Puerto Rico is closed from 12:01 a.m., local time, on July 12, 2022, through September 30, 2022. The EEZ around Puerto Rico consists of those waters lying seaward of the 9-nautical mile (nmi; 16.7-km) boundary around Puerto Rico to the outer boundary of the Puerto Rico management area, as defined in Table 1 of appendix E to 50 CFR part 622.

During the closure period for spiny lobster announced in this temporary rule, both the commercial and recreational sectors are closed. Spiny lobster in or from the EEZ around Puerto Rico may not be harvested, possessed, purchased, or sold, and the bag and possession limits are zero.

### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.12(a)(3), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b) (B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the spiny lobster ACL and the associated AM have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Such procedures are also contrary to the public interest because of the need to provide certainty about the closure decision, and to expeditiously implement the closure to protect the spiny lobster stock around Puerto Rico. Available average landings from the 2017-2019 fishing years exceeded the ACL. Based on the average fishing rate during this time period, NMFS expects the ACL will be exceeded in the 2022 fishing year and a closure is needed. Providing prior notice and opportunity for comment could interfere with NMFS' ability to publish a final temporary rule and implement the closure until after July 12, 2022, which would negatively affect NMFS' ability to control harvest this fishing year to the ACL.

For the same reasons, there is good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 22, 2022.

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